

(2022) 11 DEL CK 0121

In the Delhi High Court

Case No : Civil Writ Petition No. 15696 Of 2022

State Of West Bengal

APPELLANT

Vs

Tushar Singla & Anr

RESPONDENT

Date of Decision : 15-11-2022

Acts Referred:

Indian Administrative Service (Cadre) Rules, 1954 — Rule 5(2)

Citation : (2022) 11 DEL CK 0121

Hon'ble Judges : Sanjeev Sachdeva, J;Tushar Rao Gedela, J

Bench : Division Bench

Advocate : Madhumita Bhattacharjee, Mayank Jain, Aakriti Dhawan

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

CM APPL. 48841-42/2022 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 15696/2022 & CM APPL. 48843/2022 (for stay)

1. Petitioner – State of West Bengal impugns order dated 31.08.2022, whereby the Original Application ('OA') filed by respondent No.1 has been allowed.

2. Respondent No.1 had impugned the order dated 17.06.2021 passed by the petitioner whereby, the request of the respondents for grant of No Objection Certificate ('NOC') for an inter cadre transfer on the ground of marriage was declined.

3. Respondent No.1 is an Indian Administrative Officer of 2015 batch of West Bengal Cadre. In 2020 he got married to one Mrs. Navjot Simi, an Indian Police Service (IPS) Officer of 2018 batch of Bihar cadre. Respondent No.1 made an application on 03.06.2021 to the petitioner requesting for an inter-cadre transfer from State of West Bengal to the State of Bihar on the ground of marriage. The

State of Bihar conveyed its consent for the Inter-Cadre transfer on 23.06.2021, however the State of West Bengal i.e. the petitioner vide their impugned order dated 17.06.2021 rejected the request of the respondent No.1 for transfer.

4. Impugning the rejection of request by the State of West Bengal, respondent No.1 filed the subject O.A which has been disposed of by order dated 31.08.2022 directing the petitioner to pass necessary orders for relieving respondent No.1 on inter-cadre transfer within a period of two months of the order. It further directed that in case the order is not passed within a period of two months the officer shall be deemed to have been relieved by virtue of the order of the Tribunal.

5. The order of the Tribunal is 31.08.2022 and the subject petition has been filed after the expiry of two months on 02.11.2022. So technically the order of the Tribunal has also come into effect and there is deemed relieving of respondent No.1.

6. The Tribunal has relied upon the order of the Supreme Court in Civil Appeal No(s). 2425/2022 in The State of West Bengal vs. Reena Joshi and Another decided on 26.04.2022 and the order of this Court in W.P.(C) 2262/2022 in Government of West Bengal vs. Arsh Verma and Others, W.P.(C) 4048/2021 in State of West Bengal vs. Gandharva Rathore & Others, W.P. (C) 13444/2019 titled as Bhavna Gupta vs. The Union of India and Others, W.P.(C) 3927/2020 titled as Loganayagi Divya V. vs. Union of India and Others and W.P.(C) 11966/2018 titled as The State of West Bengal vs. Raj Karan Nayyar and Another. Following the said decisions, the Tribunal has allowed the OA.

7. In identical circumstances, this Bench also by judgment dated 17.08.2022 in W.P.(C) 11278/2022 titled State of West Bengal vs. Alankrita Pandey & Ors., rejected a similar petition filed by the petitioner and directed the petitioner to issue a NOC within two weeks, failing which, it would be deemed that the officer stood relieved.

8. Reliance placed by learned counsel for the petitioner on Rule 5(2) of the Indian Administrative Service (Cadre) Rules, 1954 and further issue with regard to shortage of officers in the West Bengal Cadre and the offer of the petitioner for an inter cadre transfer being made qua the husband have already been dealt with by the Supreme Court in The State of West Bengal vs. Reena Joshi & Anr. (supra). In respect of the reliance placed by the counsel on Rule 5(2) of the Indian Administrative Service (Cadre) Rules, 1954, it may be noticed that the said issue is under consideration before the Supreme Court. However, the Supreme Court has declined to interfere with the order of transfer, in that case.

9. We notice that the subject case is squarely covered by the decision of a Co-ordinate Bench in W.P.(C) 5533/2021 titled Lakshmi Bhavya Tanneeru vs. Government of West Bengal and Others dated 16.11.2021, as also the judgment dated 17.08.2022 in Alankrita Pandey (supra).

10. In that view of the matter, we find no merit in the petition. The petition is

consequently dismissed.